

COTTONWOOD HEIGHTS

RESOLUTION NO. 2012-51

A RESOLUTION ADOPTING A POLICY GOVERNING POLITICAL ACTIVITIES IN THE BUTLERVILLE DAYS PARADE

WHEREAS, the city of Cottonwood Heights (the "*City*") annually stages "Butlerville Days," a family-oriented celebration held on or about every July 24th to honor the City's pioneer history; and

WHEREAS, a parade (the "*Parade*") conducted by the City on City streets is part of the Butlerville Days activities; and

WHEREAS, the City regularly receives requests from political candidates to enter the Parade in order to promote their candidacy; and

WHEREAS, the City desires to adopt a formal policy (the "*Policy*") to help City officers to respond appropriately to future requests to use the Parade for political purposes; and

WHEREAS, the City's municipal council (the "*Council*") met on 25 September 2012 to consider, among other things, adopting the Policy; and

WHEREAS, the Council has reviewed the Policy, a photocopy of which is attached as an exhibit to this resolution; and

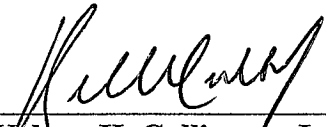
WHEREAS, after careful consideration, the Council has determined that it is in the best interests of the health, safety and welfare of the citizens of the City to approve and adopt the Policy as proposed, pending any future amendment to or revocation of the Policy;

NOW THEREFORE, BE IT RESOLVED by the Cottonwood Heights city council that the Council hereby approves and adopts the attached "Cottonwood Heights Policy Governing Political Activities at Butlerville Days Parade," pending any future amendment to or revocation of the Policy by the Council.

This Resolution, assigned no. 2012-51, shall take effect immediately upon passage.

PASSED AND APPROVED effective 25 September 2012.

COTTONWOOD HEIGHTS CITY COUNCIL

By 
Kelvyn H. Cullimore, Jr., Mayor



Linda W. Dunlavy
Linda W. Dunlavy, Recorder

VOTING:

Kelvyn H. Cullimore, Jr.	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael L. Shelton	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
J. Scott Bracken	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Michael J. Peterson	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>
Tee W. Tyler	Yea <input checked="" type="checkbox"/>	Nay <input type="checkbox"/>

DEPOSITED in the office of the City Recorder this 25th day of September 2012.

RECORDED this 26 day of September 2012.

5850733.1

COTTONWOOD HEIGHTS

POLICY GOVERNING POLITICAL ACTIVITIES AT BUTLERVILLE DAYS PARADE

BACKGROUND:

“Butlerville Days” is a non-political, family-oriented celebration held on or about every July 24th to honor the pioneer history of the city of Cottonwood Heights (the “City”). Butlerville Days is staged with City funds and with private donations to the City for use for the event. A parade (the “Parade”) is part of the Butlerville Days activities, and is conducted on City streets by City employees who are compensated for their time spent organizing and staffing the Parade.

GOVERNING LAW:

Constitutional Considerations:

Under applicable law concerning the First Amendment of the U.S. Constitution, speech regulations typically are categorized as either content regulations (regulations forbidding communication of specific ideas) or conduct regulations (regulations of the conduct associated with speaking, such as the time of the speech, sound level, etc.). Although most content-based speech restrictions are presumptively unconstitutional, conduct related to speech may be regulated by content-neutral time, place, and manner restrictions. The breadth of government’s power to regulate speech-related conduct depends on whether the forum involved is a public forum, a limited public forum, or a nonpublic forum. Government may regulate speech in public forums and limited public forums with reasonable time, place, and manner regulations that: (a) are content neutral; (b) are narrowly tailored to serve an important government interest; and (c) leave open alternative channels of communication. *United States v. Grace*, 461 U.S. 171, 177 (1983).

A parade is a limited public forum if there are ample alternative channels of communication, such as attending the parade as a spectator and disseminating literature from the public sidewalk. *Parkland Republican Club v. City of Parkland*, 268 F.Supp.2d 1349, 1354 (S.D. Fla. 2003); *Hotel Employees & Restaurant Employees Union, Local 100 of New York, N.Y & Vicinity v. City of New York Dep’t of Parks & Recreation*, 311 F.3d 534, 555-57 (2nd Cir. 2002). Restricting speech in a limited public forum is permissible if it falls within the limited forum’s purpose while not discriminating against a particular viewpoint. *Rosenberger v. Rector and Visitors of the Univ. of Va.*, 515 U.S. 819, 829 (1995).

Statutory Considerations:

UTAH CODE ANN. §20A-11-1203 prohibits public entities from expending public funds for political purposes or to influence a ballot proposition. Because the Parade is staged with City’s public funds, the City has been advised that this statute effectively prohibits the City from allowing the Parade to be used by candidates (or their supporters or opponents) for political campaign purposes, or to advocate for or against a ballot proposition.

PROCEDURE:

1. Parade entries which advocate for the election or reelection of a particular candidate, or for or against a political issue or ballot proposition, shall be prohibited on the basis that (a) such political advocacy is not consistent with Parade's purpose as a non-political, family-oriented event that celebrates the City's pioneer heritage, and (b) an alternate forum for political speech exists because candidates and advocates may attend the Parade as spectators and in that capacity may display signs or hand out leaflets from the adjoining public sidewalk supporting such candidacy or political position. Restrictions concerning political activities by Parade entrants should be published on any Parade literature, applications, and on the Parade portion of the City's website. No City restriction of political advocacy from the adjoining public sidewalks during the Parade should occur, subject to reasonable public safety restrictions imposed in a content-neutral manner.

2. Currently-serving elected officers who appeared on a ballot in the City (i.e., registered voters in the City had the opportunity to vote for or against the officer) may participate in the Parade and be identified by name and office to honor their public service; they should not, however, be identified as political candidates in any upcoming election or be allowed to use their participation in the Parade for any campaign purpose not similarly given to other candidates.

3. The Parade chairman/committee shall approve or reject proposed entries in the Parade in accordance with this policy.